

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS  
PRODUCTS LIABILITY LITIGATION

This filing applies to FALLS ET AL. v. CR  
Bard Inc., et al., Case No. 2:19-cv-02822-  
PHX-DGC

) CASE NO.: 2:15-md-02641-DGC  
)  
)  
) MOTION FOR LEAVE TO AMEND  
)  
) COMPLAINT  
)  
)

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiffs file this Unopposed Motion, pursuant to Rule 15(a)(2), Fed. R. Civ. P., seeking Leave to Amend the Complaint, because:

1. Plaintiff COUNTEY FALLS has alleged a claim for loss of consortium.
2. This claim was filed by mistake.
3. Plaintiffs seek leave to amend their complaint, attached as Exhibit A as “Plaintiff’s Third Amended Complaint,” to delete Plaintiff COUNTEY FALLS’s claim for loss of consortium.
4. Pursuant to Federal Rule of Civil Procedure 15(a)(2), “a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Rule 15(a)(2); *Foman v. Davis*, 371 U.S. 178, 182 (1962).
5. No new causes of action are being introduced, and no substantive facts have changed. No depositions have been taken. Therefore, no prejudice will come to any party by allowing Plaintiffs to amend their Complaint.
6. Defendants consent to Plaintiffs’ Motion.

**WHEREFORE**, Plaintiffs pray that this Motion be granted, that Plaintiff's Third Amended Complaint be deemed as filed, on the date of filing with this Motion, upon the Court's signed Order, and for such other appropriate relief.

Respectfully submitted.  
Ferrer, Poirot & Wansbrough

/s/John T. Kirtley, III  
John T. Kirtley, III  
TX Bar No. 11534050  
2603 Oak Lawn Ave, Suite 300  
Dallas, TX 75219  
Phone: 214-521-4412  
Fax: 214-550-2696  
Email: jkirtley@lawyerworks.com  
(Asst.: molvera@lawyerworks.com)

**ATTORNEY FOR PLAINTIFF**

CERTIFICATE OF SERVICE

This is to certify that the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure on July 1st, 2019

/s/John T. Kirtley, III

John T. Kirtley, III

## Exhibit A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS  
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

**THIRD AMENDED MASTER  
SHORT FORM COMPLAINT FOR  
DAMAGES FOR INDIVIDUAL  
CLAIMS AND DEMAND FOR JURY  
TRIAL**

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc.364). Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

Justin Falls

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

N/A

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

N/A

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant: Missouri

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury: Missouri

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

Missouri

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Western District of Missouri

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: N/A

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

N/A

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery<sup>®</sup> Vena Cava Filter

☐ G2<sup>®</sup> Vena Cava Filter

☐ G2<sup>®</sup> Express Vena Cava Filter

☐ G2<sup>®</sup> X Vena Cava Filter

☐ Eclipse<sup>®</sup> Vena Cava Filter

☒ Meridian<sup>®</sup> Vena Cava Filter

☐ Denali<sup>®</sup> Vena Cava Filter

☐ Other: N/A

---

11. Date of Implantation as to each product:

7/3/2012

---

12. Counts in the Master Complaint brought by Plaintiff(s):

✓ Count I: Strict Products Liability – Manufacturing Defect

✓ Count II: Strict Products Liability – Information Defect  
(Failure to Warn)

✓ Count III: Strict Products Liability – Design Defect

✓ Count IV: Negligence - Design

✓ Count V: Negligence - Manufacture

✓ Count VI: Negligence – Failure to Recall/Retrofit

✓ Count VII: Negligence – Failure to Warn

✓ Count VIII: Negligent Misrepresentation

✓ Count IX: Negligence *Per Se*

✓ Count X: Breach of Express Warranty

✓ Count XI: Breach of Implied Warranty

✓ Count XII: Fraudulent Misrepresentation

✓ Count XIII: Fraudulent Concealment

☒ Count XIV: Violations of Applicable MO (insert state) Law  
Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices

☒ Count XV: Loss of Consortium

- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☐ Other(s): N/A (please state the facts

supporting this Count in the space immediately below)

N/A

---

---

---

RESPECTFULLY SUBMITTED this 1st day of July, 2019.

s/ John T. Kirtley, III

**JOHN T. KIRTLEY, III**

Texas Bar No. 11534050

2603 Oak Lawn Avenue, Suite 300

P.O. Box 199109

Dallas, Texas 75219

(214) 521-4412

(214) 526-6026 Fax

[jkirtley@lawyerworks.com](mailto:jkirtley@lawyerworks.com)

Asst. [molvera@lawyerworks.com](mailto:molvera@lawyerworks.com)

[ivcfiling@lawerworks.com](mailto:ivcfiling@lawerworks.com)

ATTORNEY FOR THE PLAINTIFF

I hereby certify that on this 1st day of July, 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ JOHN KIRTLEY